Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
BellSouth Corporation	)	
	)	
Petition for Rulemaking to Change The Distribution Methodology for Shared Local Number Portability and Thousands-Block Number Pooling Costs	))))	RM-11299

COMMENTS OF AT&T INC.[1]

Pursuant to Section 1.405 of the Commission's rules (47 C.F.R. § 1.405) and the Commission's Public Notice released November 21, 2005 (DA 05-3008), AT&T Inc. ("AT&T") submits these comments on the above-captioned petition filed November 3, 2005 by BellSouth Corporation ("BellSouth") requesting the Commission to initiate a rulemaking to change the distribution methodology currently prescribed in Section 52.32 of the Commission's rules (47 C.F.R. § 52.32) and related Commission orders for shared local number portability ("LNP") and thousands-block number pooling ("TNBP") costs.[2]

BellSouth raises important issues regarding the continuing lawfulness of the present cost distribution methodology in light of the obligation imposed by Section 251(e)(2) of the Communications Act (47 U.S.C. § 251(e)(2) that all communications carriers bear the costs of number administration and LNP on a "competitively neutral" basis. AT&T therefore supports BellSouth's request that the Commission evaluate these

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[1] On November 18, 2005, SBC Communications Inc. closed on its merger with AT&T Corp. The resulting company is now known as AT&T Inc. In these comments, "AT&T" refers to the merged company and its wholly-owned subsidiaries, including its ILEC operating subsidiaries, unless otherwise noted.

[2] *BellSouth Corporation Petition for Rulemaking to Change the Distribution Methodology for Shared Local Number Portability and Thousands-Block Number Pooling Costs*, filed Nov. 3, 2005 ("Pet.")

issues on the basis of a full record developed through a notice-and-comment rulemaking pursuant to Section 1.415 *et seq.* of the Commission's rules (47 C.F.R. § 1.415 *et seq.*).

The distribution methodology for LNP costs dates from 1998[3] and, with certain modifications adopted in 2000, was then extended to govern TBNP costs as well.[4] Under this process NeuStar, Inc. ("NeuStar"), in its dual capacities as the local number portability administrator and the national pooling administrator, calculates the total shared industry costs for each of the seven regional databases used to provide both LNP and TBNP.[5] In accordance with Section 52.32(a) of the Commission's rules (47 C.F.R. § 52.32(a)), NeuStar then allocates the shared costs of each regional database in proportion to each carrier's intrastate, interstate and international end-user telecommunications revenues attributable to that region. Thus, under the revenue-based methodology carriers with large revenues bear a heavier LNP and TBNP shared cost burden, regardless of how many LNP and TBNP transactions they actually generate.

As BellSouth correctly points out (Pet. at 15-19), this methodology was never intended by the Commission as a permanent, or even a long-term, procedure for

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[3] *Telephone Number Portability*, CC Docket No. 95-116 and RM 8535, *Third Report and Order*, 13 FCC Rcd 11701 (1998) ("*Third Report and Order*").

[4] *Numbering Resource Optimization*, CC Docket No. 99-200, *Report and Order and Further Notice of Proposed Rulemaking,* 15 FCC Rcd 7574 (2000) ("*Optimization Order*").

[5] The Commission has defined "shared industry costs" as "costs incurred by the [communications carrier] industry as a whole, such as those incurred by the third-party administrator build, operate, and maintain the databases needed to provide number portability." *Third Report and Order*, 13 FCC Rcd. at 11731-32, ¶53; *see also id.* at 11739, ¶ 70 (describing particular types of shared costs). In practice, the shared costs are developed by Neustar based on the total number of "billable transactions" for each region (i.e., LNP or TBNP transactions generated by communications carriers that add, delete, or modify a record in that database), multiplied by a "transaction rate" negotiated between Neustar and North American Number Portability Management LLC, the entity that owns the regional databases. Pet. at 9-10.

distributing shared costs of LNP and TBNP among carriers.[6] Rather, the Commission adopted this revenue-based allocation methodology because it concluded that this procedure was necessary to satisfy the statutory mandate for "competitive neutrality" given the particular conditions in the then-current marketplace. One of these reasons was that a usage-based distribution process might unduly disadvantage competitive local exchange carriers ("CLECs") by shifting shared database costs towards those nascent market entrants, who would presumably be generating large numbers of LNP and TBNP transactions as they acquired new customers.[7] Additionally, the Commission expressed concern that a usage-sensitive distribution process might create economic incentives that would "discourage carriers from performing uploads and downloads, or at least penalize those carriers that do so more frequently," with consequent detrimental impact on the accuracy of the regional databases and degradation of service to end-users.[8]

The sea changes in the competitive landscape since the adoption in 1998 of the revenue-based methodology for allocating LNP costs, and the subsequent extension of that methodology to TBNP costs in 2000, raise serious questions regarding the continuing validity of that procedure under the "competitive neutrality" standard codified in Section 251(e)(2). In particular, as BellSouth observes (Pet. at 12-14), CLECs are no longer in their infancy; instead, they have become "full-fledged

[6] Indeed, from the outset of its cost allocation proceedings the Commission expressly recognized the existence of other potential allocation methods, including a usage-sensitive process to "make carriers responsible for their own costs of providing number portability, i.e., the costs they themselves incur in the first instance." *Third Report and Order*, 13 FCC Rcd at 11717, n. 100.

[7] Pet. at 16, *citing Third Report and Order*, 13 FCC Rcd at 11745, ¶ 88 ("usage-sensitive distribution of the shared costs could 'give one service provider an appreciable, incremental cost advantage over another service provider when competing for a specific subscriber,' as well as 'disparately affect the ability of competing service providers to earn a normal return'").

[8] *Id., citing* 13 FCC Rcd at 11745, ¶ 89.

competitors" to ILECs and other service providers. The current marketplace is also characterized by burgeoning growth of the wireless industry and rapidly accelerating penetration by providers of IP-based services that compete with landline offerings.[9] If there was ever any legitimate basis for skewing the LNP and TBNP cost allocation mechanism to protect CLEC interests "at [an] early stage in the deployment of number portability"[10] in 1998, that day is now long gone due to the significant industry changes in the interim.[11]

BellSouth has also presented substantial evidence that the current LNP and TBNP cost allocation methodology is not only unnecessary to preserve competitive neutrality as required by Section 252(e)(2), but in fact may seriously disserve that statutory obligation. Specifically, BellSouth shows (Pet. at 19-25) that, although there has been a marked decrease in recent years in the percentage of BellSouth's total billable transactions in the Southeast region (from six percent to three percent), the shared costs allocated among all carriers in that region have increased dramatically (from $14.5 million to $25.3 million) in the same period. As a result, under the revenue-based allocation of the regional database costs BellSouth has continued to pay a substantial portion -- *more than 20 percent* -- of the Southeast region shared costs even though it generates only three percent of the billable transactions in that region. If other carriers'

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[9] Pet. at 12 n. 39 (citing Commission data on growth of CLEC access lines from 1999 to 2004); *id.* at n.42 (citing market study projecting VoIP subscription growth among consumers from 1.1 million to in 2004 to 28.5 million by 2009).

[10] *Third Report and Order*, 13 FCC Rcd at 11745, ¶ 88.

[11] BellSouth also points out (Pet. at 18) that the Commission's initial concern that usage-sensitive cost allocation could deter carriers from updating records in regional databases is now misplaced. Although carriers' uploads to, and downloads from, the regional LNP databases are classified as "billable transactions," those transactions are accompanied by "broadcast messages" to all service providers in the affected region that are *not* treated as billable, and carriers consequently have no economic disincentive for downloading such data to their own local service management systems.

are experiencing similar disparities between usage and cost distribution under the current process, the current cost allocation process may be violating the "competitive neutrality" requirement of Section 251(e)(2), in which case the Commission would be statutorily obligated to reform that methodology. The rulemaking that BellSouth requests will provide an appropriate vehicle for the Commission to assess the need for such relief.

CONCLUSION

For the reasons stated above, the Commission should grant BellSouth's petition and initiate a rulemaking to determine whether changes to the current allocation methodology for LNP and TBNP shared costs are necessary to comply with the "competitive neutrality" obligation of Section 251(e)(2) of the Communications Act.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of January 2006, copies of the foregoing "Comments of AT&T, Inc." were served by U.S. first class mail, postage prepaid, on the parties listed below:

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